

**TRANSPORTATION CABINET
Motor Vehicle Commission
(New Administrative Regulation)**

605 KAR 1:211. Nonprofit motor vehicle dealer requirements and licensing.

RELATES TO: KRS 190.010 (29), (30); 190.032

STATUTORY AUTHORITY: KRS 190.032; 190.073

NECESSITY, FUNCTION AND CONFORMITY: KRS 190.032 requires the Motor Vehicle Commission to establish requirements for initial application for and renewal of a license to be a nonprofit motor vehicle dealer and directs the commission to establish relevant requirements that shall include standards for disability or disadvantaging conditions concerning the clients served by nonprofit motor vehicle dealers. This administrative regulation establishes requirements and standards for nonprofit motor vehicle dealer requirements and licensing.

Section 1. In addition to KRS 190.010(29) and the application requirements established in 605 KAR 1:030, Sections 1 and 3, a nonprofit motor vehicle dealer applicant shall certify that it is an organization exempt from taxation pursuant to 26 U.S.C. Section 501(c)(3) of the Internal Revenue Code and that it has made all required filings with the Internal Revenue Service.

Section 2. In addition to KRS 190.010(30), an applicant shall demonstrate to the commission that the applicant's sales program serves only clients meeting two (2) or more of the following disability or disadvantaging conditions:

- (1) The client's household income is at or below the current federal Poverty Guidelines as established by the United States Department of Health and Human Services;
- (2) The client has been designated as physically disabled by any state or federal agency;
- (3) The client has an actual need for a motor vehicle in order to meet work, educational, or medical needs and the client cannot obtain a reliable vehicle without the dealer's assistance;
- (4) The client has received state or federal funding specifically designed to allow the purchase of a vehicle for personal or household use; or
- (5) The client has experienced the loss of a functioning vehicle as a result of an event certified as a natural disaster by any applicable state or federal agency.

Section 3. Upon the submission of its initial application and each renewal application thereafter, the applicant or licensee shall submit the current IRS Form 990 filed by the organization. If the applicant or licensee files a short form version of IRS Form 990, the commission may require the applicant or licensee to submit additional information which would be contained on IRS Form 990 if the commission has reasonable cause to doubt the financial responsibility of the applicant to comply with the provisions of KRS Chapter 190.

Section 4. A nonprofit motor vehicle dealer that is not also licensed as either a new motor vehicle dealer or a used motor vehicle dealer shall not sell any vehicles except as allowed by KRS 190.032(3).

DOUG DOTSON, Chairman

APPROVED BY AGENCY: September 15, 2021

FILED WITH LRC: September 20, 2021 at 12:06 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 21, 2021 at 9 a.m. local time at the Motor Vehicle

Commission, 200 Mero Street, Frankfort, Kentucky 40601. In the event that in-person meetings are not available, this hearing will be done by video teleconference. Members of the public wishing to attend may utilize the following link: <https://us02web.zoom.us/j/82520305441>, or by telephone at 19292056099, your meeting I.D. to join in is 825 2030 5441. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on December 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below:

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Suzanne Baskett

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the requirements for licensee facilities and renewal of the license to be a nonprofit motor vehicle dealer in Kentucky.

(b) The necessity of this administrative regulation: KRS 190.032 requires the Motor Vehicle Commission to establish requirements for initial application for and renewal of a license to be a nonprofit motor vehicle dealer and directs the commission to establish relevant requirements that shall include standards for disability or disadvantaging conditions concerning the clients served by nonprofit motor vehicle dealers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation sets forth the requirements to be met by non-profit motor vehicle dealer licensees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: This regulation sets forth the information required to be submitted to the Commission.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effect of administration of the statutes:

(3) List the types and numbers of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect all individuals or businesses who wish to become retail motor vehicle dealers in Kentucky. The number of such entities is unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation establishes information that shall be submitted by applicants for non-profit motor vehicle dealer licenses.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost to each of the identified entities cannot be reasonably ascertained as there are many options for compliant facilities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities that comply with the regulation will be allowed to operate as nonprofit motor vehicle dealers in Kentucky.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No known costs.

(b) On a continuing basis: There are on-going costs related to administration of the licensing of dealers and enforcement of the regulations. This cost will vary depending on the issues related to each individual dealer.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Application fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: KRS 190.030 and 605 KAR 1:215 establish the associated fees and the Commission does not anticipate a need for any additional or increased fees or funding related to administration of this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. It does not establish or increase any fees.

(9) TIERING: Is tiering applied? No, tiering is not applied because all nonprofit motor vehicle dealers affected by this regulation are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Motor Vehicle Commission.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 190.035, 190.073.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Revenue to be generated is unknown because the commission cannot determine how many businesses will apply for the applicable license.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Revenue to be generated is unknown because the commission cannot determine how many businesses will renew for the applicable license.

(c) How much will it cost to administer this program for the first year? The cost of administering this program in the first year is unknown as it will depend upon the number of applicants and the issues which arise with regard to applicants and licensees.

(d) How much will it cost to administer this program for the subsequent years? The cost of administering this program in the subsequent years is unknown as it will depend upon the number of applicants and the issues which arise with regard to applicants and licensees.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: